GAY COMMUNITY POSITION STATEMENT
on the Arrests of the May Company Forty

We do not wish in any way to suggest by the issuance of this statement anything about the sexual orientation of any of the forty men arrested in the May Company's men's room (during the week ending Friday the 13th, 1974) or that any of them are "guilty" as charged. On the contrary, we wish to make it clear that their actual conduct has not yet been established and we believe that they are innocent until proven guilty.

Our concern, then, is with the flagrant abuse of the civil rights of all citizens by the installation of a device in a public restroom designed to observe people without their knowledge, particularly in an area where anyone naturally assumes privacy. Such action on the part of the May Company is in direct violation of the California Penal Code #653n which defines such action as a misdemeanor.

Secondly, the San Diego Police Department has conspired with the May Company in this unlawful act by providing a vice squad (Public Inspection Unit) officer to peer through this device all day while men evacuate their bladders. Such a conspiracy to commit a misdemeanor is defined by the California Penal Code as a felony. The issuance of a warrant by the court for this sort of conduct has highly questionable constitutionality, and may soon be challanged formally. At least five citizens have called on the City Attorney's Office to demand that criminal charges be brought against the May Company. But that office refuses to take action on the grounds that the observation device "is not a two-way mirror as defined in the statute", clearly ignoring the intent of the law to prevent spying on our citizenry.

Further, the May Company has demonstrated its lack of concern for the civil rights issue by the following behavior. It posts signs in its clothing try-on rooms which read "Due to theft and damage these rooms are being observed." In other words, in the case of a suspected victim crime (theft) they issue a warning—'don't do it or you'll get caught!' By contrast, in the public restroom, where they suspect that a victimless "crime" might occur, no signs are posted, no security person patrols, no effort to prevent "crime"! But an elaborate device has been installed to spy on all citizens in the hope of trapping and punishing a few. The intent is clear...'Prevent victim crime, punish victimless crime because they are easier targets'. This selective and discriminatory practice of law enforcement is an affront to decent citizens everywhere and a blatant return to McCarthyism which should now be far behind us.

Thirdly, the San Diego Union/Tribune and the El Cajon Californian have joined the outrageous behavior of the May Company/SDPD conspiracy by publishing the full names, addresses, ages, and occupations of all 40 arrestees on three separate occasions whether charged with felony or misdemeanor conduct. We know of no other situation where persons charged with misdemeanors receive such treatment. Such abuse of the press and the malicious destruction of privacy must be condemned by all citizens concerned with civil liberties.

Fourthly, we wish to make it abundantly clear why we find it imperative to make a stand on this issue. We do not now, and never have, endorsed conducting sexual activity in public. Further, we have no knowledge of the sexual tendencies or orientation of any of the 40 arrestees. But we do know what it is like to be mistreated, ostracized, and denied our civil rights if it is suspected that we might not be 100% heterosexual at all times. We know because we are up-front gay people. We have chosen to live our lives openly and honestly for all to see. And everytime someone's family life, livelihood, or social position is destroyed because it is suspected that they do not conform to the majority culture, it is an attack on us.

We, as gay citizens, are not the only people who have a stake in this civil-rights issue and we are prepared to join with our heterosexual brothers and sisters in fighting this injustice. But if we are the only minority group valiant enough to stand up and be counted at this time, we are quite prepared to bear that burden alone and bring this issue to a just conclusion, benefiting all Americans.

Finally, we understand the sociological pressures in our society which force people to conceal their sexual preferances except when in a public bathroom and anonymity is presumed assured. Accordingly, ours is a plea of empathy for all people who find themselves disgraced by one thoughtless indiscretion, and a plea to focus attention on our society's lopsided sense of values. We hereby urge all citizens to write to the May Company, the SDPD, the Union/Tribune, and the El Cajon Californian to demand immediate cessation of their tactics; and to city councilpersons and assemblypersons to insist that they take a public stand on this issue.

United in the struggle,

Gay Community Coalition Gay Center for Social Services The Royal Court de San Diego

San Diego Son Pacific Coast Times Publishing Corporation Metropolitan Community Church/Palomar

Metropolitan Community Church/San Diego Dignity/San Diego Gay Gourmets of San Diego

Endorsements: Sexual Freedom League American Civil Liberties Union Socialist Workers Party

National Association of Social Workers